determining an exchange rate of the local currency of the vendor to the local currency of the buyer;

converting the price of the product from the local currency of the vendor to the local currency of the buyer to form a final price according to said exchange rate, such that the buyer receives information concerning said final price before a payment transaction is performed;

receiving payment from the buyer for said final price to perform said payment transaction;

converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment according to said exchange rate, wherein said exchange rate is guaranteed at a time of calculating said final price for the buyer, such that the price in the local currency of the vendor is guaranteed and such that the price in the local currency of the buyer is guaranteed; and

paying the vendor with said converted payment.

a1

2. (Amended) The method of claim 1, wherein said receiving payment from the buyer includes receiving payment from an account of the buyer in a financial institution, such that said financial institution does not perform said converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment.

5. (Amended) The method of claim 4, wherein said converting the price of the product further comprises:

receiving said exchange rate at said Web site;

converting the price according to said exchange rate to form said final price;

constructing a Web page including said final price; and

displaying said Web page to the buyer.

6. (Amended) The method of claim 5, wherein said converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment further comprises:

A2

providing a plurality of currency accounts, each currency account having a different type of currency; and

transferring an amount of said payment from a currency account containing the local currency of the buyer to a currency account containing the local currency of the vendor to form said converted payment.

7. (Amended) The method of claim 6, wherein said transferring an amount of said payment is performed for a plurality of payments from the buyer to the vendor, such that a plurality of converted payments are formed.

9. (Amended) The method of claim 8, wherein said determining an exchange rate includes determining a plurality of exchange rates, each of said plurality of exchange rates being guaranteed for a separate predetermined period of time, wherein said converting the price of the product further comprises converting the price of the product to a plurality of payments for being paid by the buyer at a plurality of separate points in time, each payment being converted according to one of said plurality of exchange rates, such that said receiving payment from the buyer is performed repeatedly for each payment by the buyer.

a3

10. (Amended) The method of claim 8, wherein the vendor purchases a plurality of products from a plurality of suppliers, each supplier being paid in a separate local currency of said supplier, and wherein the vendor sells said plurality of products to a plurality of buyers, each buyer paying in a separate local currency of said buyer, such that said determining an exchange rate includes determining a first exchange rate for paying said supplier by the vendor and determining a second exchange rate for paying the vendor by said buyer, each of said first and said second exchange rates being guaranteed for a separate predetermined period of time.

11. (Amended) The method of claim 1, further comprising:

combining payments from a plurality of transactions for each currency account; and

purchasing additional currency for each currency account in a FOREX market.

12. (Amended) The method of claim 11, wherein said purchasing additional currency includes prior hedging of each currency in each currency account.

a 3

13. (Amended) The method of claim 1, wherein said determining an exchange rate further comprises:

receiving said exchange rate from a FOREX market rate; and

transmitting said exchange rate to the vendor.

16. (Amended) The method of claim 13, wherein said transmitting said exchange rate further comprises automatically detecting the local currency of the buyer.

a 4

17. (Amended) The method of claim 1, wherein said receiving payment from the buyer and said paying the vendor with said converted payment are performed through a trustee, such that said trustee receives payment from the buyer and gives payment to the vendor.

19. (Amended) The method of claim 18, wherein said converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment further comprises:

aggregating payments from a plurality of buyers;

exchanging said payments through a currency exchange market, to provide funds in the local currency of the vendor; and

transferring said payment to the vendor from said funds in the local currency of the vendor on said settlement date.

a4

20. (Amended) The method of claim 19, wherein said determining an exchange rate includes adjusting said exchange rate according to a transaction fee, for performing said exchanging said payments through a currency exchange market, to provide funds in the local currency of the vendor.

21. (Amended) The method of claim 1, wherein said receiving payment from the buyer is performed by a third party payment clearance mechanism to receive payment from the buyer.

22. (Amended) The method of claim 21, wherein a plurality of third party payment clearance mechanisms are available for receiving payment from the buyer, such that the vendor selects one of said plurality of third party payment clearance mechanisms for said receiving payment from the buyer.

23. (Amended) A method for performing online hedging at a point of sale for a transaction for purchasing a product by a buyer from a vendor, the product having a price, a local currency of the buyer being different from a local currency of the vendor, the buyer communicating with the vendor through a network, the method comprising:

determining an exchange rate of the local currency of the vendor to the local currency of the buyer;

converting the price of the product from the local currency of the vendor to the local currency of the buyer to form a final price according to said exchange rate, such that the buyer receives information concerning said final price before a payment transaction is performed;

a 4

hedging said payment transaction;

receiving payment from the buyer for said final price to perform said payment transaction;

converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment according to said exchange rate; and

paying the vendor with said converted payment.

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-24 are in this case. Claims 1-24 have been rejected. Claims 1, 2, 5-7, 9-13, 16, 17, and 19-23 have now been amended.

35 U.S.C. § 102(b) Rejections – Reeder

The Examiner has rejected claims 1-5, 8, 9 and 17-24 under § U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,852,812 to Reeder. The rejections of the Examiner are respectfully traversed.

Reeder discloses a system for billing network customers for charges in a different currency than the local currency of the customer. However, the transaction charge is calculated in the local currency of the customer, according to a stored price in the different currency, only after the transaction has been performed (see for example col 16, lines 25-50, in which the price is first determined at state 736, while the cost in the local currency of the buyer is only determined much later, at state 750). Certainly, no guarantee of the transaction charge price in the local currency of the buyer is given (see for example col 5, lines 55-65, which describes a general time frame for changing a cost from a first currency to the local currency of the buyer, but does not mention guaranteeing the price at the time of transaction). After the transaction has been performed, this transaction charge price is then sent to the credit card processor, and is then billed to the credit card account of the customer (see for example col 19, lines 28-60, which describes a monthly billing process which collects fees on a monthly basis). All of these delays clearly prevent the taught system from being able to offer any type of *guarantee* of the price in the

buyer's local currency and/or of a guarantee of the price in the seller's local currency, without risk of a loss being incurred by a party to the transaction.

The present invention provides a system and method in which the price is guaranteed both to the buyer *in the buyer's local currency*, and to the seller *in the seller's local currency*. Providing such a guarantee is not obvious, since it would be expected to cause a loss if the exchange rate fluctuated. As the global (world-wide) exchange rate clearly cannot be under the control of the buyer or the seller, the present invention provides a mechanism which enables the exchange rate to be guaranteed to both the buyer and seller, even if there is a delay in the actual transfer of the payment to the seller and/or of collection of the payment from the buyer.

The importance of guaranteeing the exchange rate, and hence the price for both the buyer and the seller in their respective local currencies, becomes more clear when considering the typical settlement (payment) process. For the settlement process to occur, the bill (request for payment) must be sent from the seller to a credit card processor or to the bank of the buyer, or to some other institution making the payment. It is possible that payment may actually involve several organizations, such as a third party payment clearance mechanism in combination with a credit card processor and/or a bank. Therefore, payment to the seller cannot possibly be instantaneous, even if the bill is immediately processed upon receipt. Furthermore, collection of payment from the buyer also usually requires some time, as credit card bills are typically paid on a monthly basis, for example. Other methods of payment by the buyer,

such as a wire transfer of funds from a bank, would also be expected to require further time. Thus, it is not physically possible for the buyer to pay, and the seller to receive payment, instantaneously at the exact moment of purchase.

Without some type of guarantee of the exchange rate, and hence of the price of a product, at least one of the buyer and the seller would be exposed to currency fluctuations, and if they are not exposed, then another party (such as a credit card company for example) would be exposed. The present invention overcomes this problem by guaranteeing the constant real, actual value of the price. This allows both the buyer and the seller to manage purchases and sales, respectively, in their local currency. It also allows long term pricing to be maintained, in which the seller maintains the price of product without being exposed to the risk of currency fluctuations.

Therefore, there are a number of important differences between the present invention and that of Reeder. One such difference is that the present invention guarantees the price in the local currency of the buyer and also in the local currency of the seller, as described above. This difference is now emphasized by the amendment to claim 1. Support for this amendment can be found throughout the specification. In particular, support can be found on p. 4, lines 13-19.

Another important difference concerns hedging, as recited in claims 12, 23 and 24. The concept of "hedging" is neither taught nor suggested by Reeder. As described in greater detail with regard to the attached Affidavit, hedging involves establishment of a position on a financial futures market

which is equal and opposite to a transaction made on an actual or physical market for the purpose of minimizing the risk of loss due in this case to currency price fluctuation. Hedging is a well known term in the art, such that its meaning is quite clear to one of skill in the art.

Reeder does not even mention hedging, or any process which is similar to hedging, because Reeder is not concerned with the effect of currency fluctuations on a price, as charged to the buyer, as paid by the buyer, or as paid to the seller. As can be seen by this simplified description, there are at least three points in the transaction where currency fluctuations can cause a loss to one of the parties. Indeed, the credit card associations, which are mindful of such potential losses, have established strict rules for applying dynamic currency conversion (DCC) to electronic payments, for example when the credit card holder (buyer) wishes to purchase a product from a vendor in a currency that is not the currency of the buyer. Recent regulations published by the credit card companies Visa® and MasterCard® clearly stipulate that in a DCC transaction, the buyer must have "up-front" knowledge of the amount to be charged in the buyer's local currency. Reeder does not provide such knowledge and as such would not be approved by Visa® or MasterCard® for submitting payment transactions through their networks. One way to resolve the problems of potential loss due to currency fluctuation is by hedging. Reeder does not teach any type of protection for currency fluctuations, because Reeder does not even mention currency fluctuations. Reeder's taught system operates without regard to such fluctuations, and certainly operates without any

reference to protection for such fluctuations. Thus, Reeder does not teach or suggest hedging.

Applicant notes that claim 23 was amended only for clarity, and not because of the references cited by the Examiner or for reasons of patentability. Claims 2, 5-7, 9-13, 16, 17, and 19-22 were also amended only for clarity. Claim 24 has not been amended.

<u>35 U.S.C. § 103 Rejections – Reeder and Garber</u>

The Examiner has rejected claims 6, 7 and 10-16 under § U.S.C. 103(a) as being unpatentable over Reeder in view of Garber. The rejections of the Examiner are respectfully traversed.

The object of Reeder is described above.

The object of Garber is a system for buying and selling currency contracts. Garber mentions hedging (see col 3, lines 60-67), but only in the context of buying and selling currency contracts of various types. Similarly, Garber only mentions the FOREX market in the context of buying and selling currency contracts.

By contrast, the present invention provides a guarantee to the price of products in the buyer's local currency and in the seller's local currency, as described above. According to preferred embodiments, such a guarantee may be provided through hedging. Also, the present invention optionally includes guaranteeing a plurality of exchange rates when a vendor buys products from a

plurality of suppliers and then sells these products to a plurality of buyers (claim 10).

Therefore, a number of important differences can be seen between the present invention and that of the combined teachings of Reeder and Garber. As described above, Reeder does not teach or suggest hedging. Garber teaches hedging, but there is no nexus or connection between Reeder and Garber, since Reeder does not even mention the possible problems of currency exchange rate fluctuations. Garber mentions such problems, but only in the context of a well known issue, which is that of currency contracts; since the contracts relate to buying and selling currency itself, such that exchange rate fluctuations are a *direct problem* for such contracts, the solution proposed by Garber is merely an improvement on a well known mechanism.

By contrast, the present invention solves a real need to protect the parties involved in cross-border e-Commerce transactions from currency exchange rate fluctuations occurring throughout the transaction lifecycle, from online catalog display through to settlement of funds in vendor's bank accounts. Thus, as described in greater detail in the Affidavit, one of ordinary skill in the art would not be able to obtain the present invention as claimed by combining Reeder and Garber.

The present invention provides a solution for a problem which arises because of the increasing globalization of commerce, particularly through the Web. This problem is not a direct consequence of such commerce, but could have a significant negative effect on such commerce if not solved. However,

the background art neither taught nor suggested that the problem even existed, let alone attempted to provide a solution. Indeed, the present invention solves a long felt need for protection against exchange rate fluctuations.

Thus, one of ordinary skill in the art would not have been motivated to combine Reeder and Garber for a number of reasons, *inter alia*: the problem of exchange fluctuations for such transactions had not been recognized in the art; even if recognized, one of ordinary skill in the art would not have been motivated to consider a solution that is part of a wholly unrelated field to electronic commerce; and even if one of ordinary skill in the art had been so motivated, the specific claimed mechanism for hedging of the present invention would not have resulted from such a combination, since hedging is performed once the final price has been determined for the buyer but before payment is received from the buyer. By contrast, hedging for currency contracts does not occur in the middle of a buying transaction, but rather is the basis for the transaction from the beginning of that transaction.

As described in greater detail in the Affidavit, the present invention requires a non-trivial implementation in order to provide the claimed system and method. For example, the claimed system and method require the prices for many different purchases to be reconciled at the point of purchase, yet for which payment may only be received after a significant delay. Furthermore, the outcome of the actual transaction may also depend upon such factors as charge-backs, refunds etc. Thus, the present invention is not technically simple or trivial.

Applicant further notes that as independent claim 1 is allowable, dependent claims 2-22 are also allowable.

In view of the above amendments and remarks it is respectfully submitted that claims 1-24 are now in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

D'vorah Graeser
Agent for Applicant
Registration No. 40,000

Date: May 28, 2003

MARKED-UP CLAIMS

1. (Amended) A method for supporting a transaction for purchasing a product by a buyer from a vendor, the product having a price, a local currency of the buyer being different from a local currency of the vendor, the buyer communicating with the vendor through a network, the method comprising [the steps of]:

[(a)] determining an exchange rate of the local currency of the vendor to the local currency of the buyer;

[(b)] converting the price of the product from the local currency of the vendor to the local currency of the buyer to form a final price according to said exchange rate, such that the buyer receives information concerning said final price before a payment transaction is performed;

[(c)] receiving payment from the buyer for said final price to perform said payment transaction;

[(d)] converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment according to said exchange rate<u>, wherein said exchange rate is guaranteed at a time of calculating said final price for the buyer, such that the price in the local currency of the vendor is guaranteed and such that the price in the local currency of the buyer is guaranteed</u>; and

[(e)] paying the vendor with said converted payment.

2. (Amended) The method of claim 1, wherein [step (c)] said receiving payment from the buyer includes [the step of] receiving payment from an account of the buyer in a financial institution, such that said financial institution does not perform [step (d)] said converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment.

5. (Amended) The method of claim 4, wherein [step (b)] said converting the price of the product further comprises [the steps of]:

[(i)] receiving said exchange rate at said Web site;

[(ii)] converting the price according to said exchange rate to form said final price;

[(iii)] constructing a Web page including said final price; and

[(iv)] displaying said Web page to the buyer.

6. (Amended) The method of claim 5, wherein [step (d)] said converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment further comprises [the steps of]:

[(i)] providing a plurality of currency accounts, each currency account having a different type of currency; and

[(ii)] transferring an amount of said payment from a currency account containing the local currency of the buyer to a currency account containing the local currency of the vendor to form said converted payment.

7. (Amended) The method of claim 6, wherein [step (ii)] <u>said transferring an amount of said payment</u> is performed for a plurality of payments from the buyer to the vendor, such that a plurality of converted payments are formed.

9. (Amended) The method of claim 8, wherein [step (a)] <u>said determining an exchange rate</u> includes [the step of] determining a plurality of exchange rates, each of said plurality of exchange rates being guaranteed for a separate predetermined period of time, wherein [step (b)] <u>said converting the price of the product</u> further comprises [the step of] converting the price of the product to a plurality of payments for being paid by the buyer at a plurality of separate points in time, each payment being converted according to one of said plurality of exchange rates, such that [step (c)] <u>said receiving payment from the buyer</u> is performed repeatedly for each payment by the buyer.

10. (Amended) The method of claim 8, wherein the vendor purchases a plurality of products from a plurality of suppliers, each supplier being paid in a separate local currency of said supplier, and wherein the

vendor[s] sells said plurality of products to a plurality of buyers, each buyer paying in a separate local currency of said buyer, such that [step (a)] <u>said determining an exchange rate</u> includes [the steps of] determining a first exchange rate for paying said supplier by the vendor and determining a second exchange rate for paying the vendor by said buyer, each of said first and said second exchange rates being guaranteed for a separate predetermined period of time.

11. (Amended) The method of claim 1, further comprising [the steps of]:

[(f)] combining payments from a plurality of transactions for each currency account; and

[(g)] purchasing additional currency for each currency account in a FOREX market.

12. (Amended) The method of claim 11, wherein <u>said purchasing additional currency</u> [step (g)] includes [the step of] prior hedging of each currency in each currency account.

13. (Amended) The method of claim 1, wherein [step (a)] <u>said determining an exchange rate</u> further comprises [the steps of]:

[(i)] receiving said exchange rate from a FOREX market rate; and

[(ii)] transmitting said exchange rate to the vendor.

16. (Amended) The method of claim 13, wherein said transmitting said exchange rate [step (ii)] further comprises [the step of] automatically detecting the local currency of the buyer.

17. (Amended) The method of claim 1, wherein [steps (c) and (e)] said receiving payment from the buyer and said paying the vendor with said converted payment are performed through a trustee, such that said trustee receives payment from the buyer and gives payment to the vendor.

19. (Amended) The method of claim 18, wherein [step (d)] said converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment further comprises [the steps of]:

[(i)] aggregating payments from a plurality of buyers;

[(ii)] exchanging said payments through a currency exchange market, to provide funds in the local currency of the vendor; and

[(iii)] transferring said payment to the vendor from said funds in the local currency of the vendor on said settlement date.

20. (Amended) The method of claim 19, wherein [step (a)] said determining an exchange rate includes [the step of] adjusting said exchange rate according to a transaction fee, for performing said exchanging said

payments through a currency exchange market, to provide funds in the local currency of the vendor [step (ii) of step (d)].

21. (Amended) The method of claim 1, wherein [step (c)] said receiving payment from the buyer is performed by a third party payment clearance mechanism to receive payment from the buyer.

22. (Amended) The method of claim 21, wherein a plurality of third party payment clearance mechanisms are available for receiving payment from the buyer, such that the vendor selects one of said plurality of third party payment clearance mechanisms for said receiving payment from the buyer [in step (c)].

23. (Amended) A method for performing online hedging at a point of sale for a transaction for purchasing a product by a buyer from a vendor, the product having a price, a local currency of the buyer being different from a local currency of the vendor, the buyer communicating with the vendor through a network, the method comprising [the steps of]:

[(a)] determining an exchange rate of the local currency of the vendor to the local currency of the buyer;

[(b)] converting the price of the product from the local currency of the vendor to the local currency of the buyer to form a final price according to said exchange rate, such that the buyer receives

information concerning said final price before a payment transaction is performed;

[(c)] hedging said payment transaction;

[(d)] receiving payment from the buyer for said final price to perform said payment transaction;

[(e)] converting said payment from the local currency of the buyer to the local currency of the vendor to form a converted payment according to said exchange rate; and

[(f)] paying the vendor with said converted payment.